

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

INTERNATIONAL UNION,
SECURITY, POLICE & FIRE
PROFESSIONALS OF AMERICA,

Plaintiff,

Case No. 14-11484

Honorable Nancy G. Edmunds

v.

STEVEN ANGELO MARITAS, et. al.,

Defendant.

**ORDER REMANDING THE MAGISTRATE JUDGE'S MAY 15, 2015 REPORT AND
RECOMMENDATION [66] AND DENYING AS MOOT PLAINTIFF'S OBJECTIONS
[68]**

This matter comes before the Court on the Magistrate Judge's May 15, 2015 Report and Recommendation [66]. For the reasons stated below, the Court declines to adopt the Magistrate Judge's Report and Recommendation and REMANDS this matter for further consideration.

On May 13, 2015, Plaintiff filed a motion for a temporary restraining order seeking to extend Defendant's non-compete agreement. (Dkt. 64). Two days later, the Magistrate Judge issued a Report and Recommendation denying Plaintiff's request. (Dkt. 66). As the Report makes clear, the Magistrate Judge was not convinced that Plaintiff presented sufficient evidence to establish a strong likelihood of success on the merits. The Report's conclusion was based, at least in part, on a legal determination that has since been rejected by the Sixth Circuit. More specifically, the Sixth Circuit, in a 2-1 decision issued on May 20, 2015, held that the language in Defendant's non-compete agreement "should

not be read narrowly to apply only to '9(b)(3) unions'. . . ." *SPFPA v. Maritas*, No. 14-1415, (Sixth Cir. May 20, 2015). As Plaintiff suggests in its objections to the Report, the Sixth Circuit's decision may alter the Magistrate Judge's analysis as it relates to the likelihood of Plaintiff's success on the merits.

Accordingly, in light of the Magistrate Judge's familiarity with this matter, the Court finds that the most efficient means of disposing of Plaintiff's objections is to return the Report and Recommendation (Dkt. 99) with instructions to reconsider the matter in light of the Sixth Circuit's opinion. See 28 U.S.C. § 636(b) (1) (stating that a "judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions."); see also *Thompson v. Corr. Med. Servs., Inc.*, 09-14483, 2014 WL 3894367, at *2 (E.D. Mich. Aug 8, 2014) (Borman, J) (recommitting a motion for summary judgement to the magistrate judge following the court's review of the plaintiff's objections).

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: June 23, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 23, 2015, by electronic and/or ordinary mail.

s/Carol J. Bethel
Case Manager